

Robert Klugman – January 28, 2021

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 CASE NO. 18-MD-2865 (LAK)

4 IN RE:)
)
)

5 CUSTOMS AND TAX ADMINISTRATION OF)
6 THE KINGDOM OF DENMARK)
(SKATTEFORVALTNINGEN) TAX REFUND)
7 SCHEME LITIGATION)

8 This document relates to case nos.)
19-cv-01783; 19-cv-01788; 19-cv-01794;)
9 19-cv-01798; 19-cv-01918)
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14 REMOTE VTC VIDEOTAPED DEPOSITION UNDER ORAL

15 EXAMINATION OF

16 ROBERT KLUGMAN

17 DATE: January 28, 2021
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25 REPORTED BY: MICHAEL FRIEDMAN, CCR

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1 R O B E R T K L U G M A N,

2 called as a witness, having been first
3 duly sworn according to law, testifies as follows:
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5

6 EXAMINATION BY MR. MAGUIRE:

7 Q Good morning, Mr. Klugman?

8 A Good morning.

9 Q So I'm Bill Maguire and I represent
10 the plaintiff who I'm going to call SKAT.
11 And I will ask you questions today.

12 We need a clear record, so could I
13 ask you, please, if there's any question that
14 I ask you that you don't understand, please
15 let me know and give me a chance to fix the
16 question.

17 A Okay. Just one question before we
18 start. Your audio is a little — I don't
19 know if I'm the only person to hear the
20 audio.

21 It's a little fuzzy compared to the
22 other two previous speakers.

23 Q I will move a little closer.

24 Is that a little better?

25 A A little better, yes.

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1 theoretically have gotten approval from
2 Fidelity to use this, but that would have
3 been very impractical.

4 Q Okay. Why did you set up six
5 plans? Why not just one?

6 A Well, it was -- I was told in order
7 to get an allocation, it needed to be done
8 through multiple plans to get that. There
9 was an allocation per plan, and if I wanted
10 to get a certain allocation, it would have to
11 be in multiple plans.

12 Q And who told you that?

13 A Sanjay Shah.

14 Q And when did he tell you that?

15 A Sometime in the spring of 2014.

16 Q And did he explain why there was a
17 limited allocation per plan?

18 A My recollection is a little fuzzy
19 on this. But, I mean, I think it had to do
20 with size limits per plan based on local law,
21 "local" being non-U.S.

22 Q And did he explain where this local
23 law was, where outside the U.S. it was?

24 A Well, he talked about doing
25 transaction in Belgium and Denmark.

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1 Q And when he explained size limits,
2 what kind of -- what was he -- what was
3 limited by size?

4 A The number of shares that could be
5 purchased.

6 Q What was the limit on the number of
7 shares?

8 A I don't remember what the limit
9 was.

10 Q Did he give a number?

11 A No.

12 Q Did he explain what the expected
13 profits would be per plan, per allocation?

14 A Sorry? You said the expected
15 profit?

16 Q Yes. So if you set up a plan, and
17 you got an allocation, what the expected
18 profit would be on that?

19 A Yes, he gave an estimate.

20 Q And what was that?

21 A I think he gave an estimate of
22 around, if all the trading worked, around a
23 million dollars per plan.

24 I don't remember exactly.

25 Q And did he explain over what period

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1 going forward.

2 Q So that was just after -- same
3 month, but later in the month, as the first
4 trades that were done in early August.

5 Was there any discussion about
6 those trades?

7 A Not that I recall. It's certainly
8 possible that that would have been covered.

9 Q And what do you recall about that,
10 the discussion of trades going forward?

11 A I don't remember specifically. It
12 was just, I think, we -- we may have
13 confirmed that the profit split. But other
14 than that, I don't really recall anything
15 specifically.

16 Q And what was the profit split?

17 A That he was going to get 75 percent
18 of the reclaims.

19 Q And then the remaining 25 percent
20 would be split among the other participants?

21 A Yes.

22 Q Was there any discussion of the
23 expectation of the return, what the hundred
24 percent, what that would be?

25 A I don't recall that overall level

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1 of that represented profit -- I'd have to
2 calculate.

3 I think, you know, a minority of
4 that 25 was paid in terms of brokerage fees,
5 forward fees, transaction costs, custody
6 fees, lawyers fees, et cetera.

7 Q And just so we follow the math, is
8 there a ballpark number that you would feel
9 comfortable with for all of those expenses?

10 A I'll just say -- just to use round
11 numbers, I mean, I could be off, let's say
12 five out of the 25.

13 Q So that would leave a total of 20?

14 A Yes.

15 Q And then, what -- how was the 20
16 distributed, then, as between the plan and
17 the partnership?

18 A Which partnership are you referring
19 to?

20 Q Well, the plans that made the
21 reclaims were subject to partnerships, were
22 they not, of you and Mr. Van Merkensteijn and
23 Mr. Markowitz.

24 Right?

25 A Not so much. There -- they were

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1 set up in a way that the profits would be
2 split a third, a third, a third. But each
3 plan -- like so, for example, my plan, or of
4 the six plans I had, I had a hundred percent
5 of those. And those would go to me, although
6 only five of them generated any reclaims.

7 Of the other plans that were -- and
8 the same would go true for Richard
9 Markowitz's plans and John Van Merkensteijn's
10 plans.

11 Then there were other plans that we
12 went through before which started out -- I
13 forget the exact numbers, but I think it was
14 5 percent, 20 percent, and 75 percent, and
15 then it switched to a third -- a round number
16 of .67, something.

17 I forget the exact numbers, but
18 that's what governed how the money was
19 distributed.

20 Q Okay. So, in the case of your
21 personal plans, Mr. Markowitz's, and Mr. Van
22 Merkensteijn's, if the plan ended up with 20,
23 then that plan would get to keep a hundred
24 percent of that 20, and would end up with 20
25 out of the total reclaim that went out?